

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

SUZANNE CAREY,

Plaintiff,

v.

INT'L UNION OF OPERATING ENGINEERS
(IUOE), LOCAL 612,

Defendant.

No. 12-cv-5025 RBL

Order

[Dkt. #1]

I. INTRODUCTION

Before the Court is Plaintiff Suzanne Carey's application to proceed *in forma pauperis*. [Dkt. #1]. For the reasons set forth below, the Court denies the application.

II. DISCUSSION

A district court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). The court has broad discretion in resolving the application, but "the privilege of proceeding *in forma pauperis* in civil actions for damages should be sparingly granted." *Weller v. Dickson*, 314 F.2d 598, 600 (9th Cir. 1963), *cert. denied* 375 U.S. 845 (1963). Moreover, a court should "deny leave to proceed *in forma pauperis* at the outset if it appears from the face of the proposed complaint that the action is frivolous or without merit." *Tripathi v. First Nat'l Bank & Trust*, 821 F.2d 1368, 1369 (9th Cir. 1987) (citations omitted); *see also* 28 U.S.C. § 1915(e)(2)(B)(i). An *in forma pauperis* complaint is frivolous if "it ha[s] no arguable substance in law or fact." *Id.* (citing *Rizzo v.*

1 *Dawson*, 778 F.2d 527, 529 (9th Cir. 1985); *Franklin v. Murphy*, 745 F.2d 1221, 1228 (9th Cir.
2 1984).

3 Here, the Court must deny Plaintiff's application because (1) Plaintiff appears to have
4 funds sufficient to pay the necessary filing fees; and (2) the claims in the Complaint have been
5 previously litigated and dismissed, and thus, lack merit.

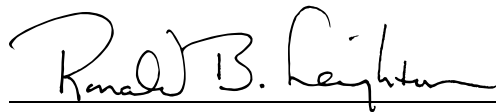
6 First, Plaintiff lists a monthly income of \$1,710.00 and claims no dependents. The Court
7 recognizes that filing fees can be onerous but must conclude, nonetheless, that Plaintiff has funds
8 sufficient to pay the necessary costs.

9 Second, the Complaint appears to be a reassertion of claims previously dismissed. *See*
10 *Carey v. Office of Prof'l Emp. Int'l Union*, No. 04-cv-5438 FDB (W.D. Wash. June 3, 2004)
11 (dismissing claims against International Union of Operating Engineers, Local 612), *aff'd*, No.
12 05-35692 (9th Cir. Nov. 22, 2006). Thus, the Court must conclude that the Complaint lacks
13 merit on its face.

14 III. ORDER

15 For the reasons stated above, the Court **DENIES** the application to proceed *in forma*
16 *pauperis*. [Dkt. #1]. Plaintiff has **30 days** to pay the filing fees or the case may be dismissed.

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18 Dated this 23rd day of January, 2012.

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21 RONALD B. LEIGHTON
22 UNITED STATES DISTRICT JUDGE
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